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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,250

03/24/2004

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EXAMINER

POLLACK, MELVIN H

ART UNIT

PAPER NUMBER

2145

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/807,250	Applicant(s) TACHIHARA ET AL.	
	Examiner MELVIN H. POLLACK	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/24/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>see attached office action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 9 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are drawn to software-per-se.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4-6, and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Natarajan et al. (6,505,244).

5. For claims 1, 9, and 10, Natarajan teaches a performance management method and system (abstract) for monitoring states of programs and system resources and managing performance of a computer system (col. 1, line 1 – col. 4, line 50; col. 33, line 60 – col. 34, line 5), the performance management method comprising the steps of:

- a. referring to business information (col. 27, lines 10-15) representing programs and system resources used in computers (col. 15, lines 5-10), and generating and managing

correlation information representing correlations among them (col. 7, line 10 – col. 10, line 55); and

b. generating monitoring structure information in accordance with the generated correlation information (col. 21, line 15 – col. 22, line 30), the monitoring structure information representing a structure for monitoring the programs and system resources (col. 13, line 60 – col. 14, line 40).

6. For claim 2, Natarajan teaches that the monitoring structure information is generated so as to be different from user to user in accordance with a policy set by a user (col. 28, lines 60-65).

7. For claim 4, Natarajan teaches that a part or whole of the policy is set by using preset contents (col. 14, lines 30-40).

8. For claim 5, Natarajan teaches that the correlation information is generated by a business information integration DB subjected to mirroring of business information using a storage technique including a SAN (Storage Area Network) (col. 13, lines 10-30).

9. For claim 6, Natarajan teaches that an alteration in the business information is detected and the monitoring structure information is updated (col. 26, lines 30-50).

10. For claim 8, Natarajan teaches that the correlation information is generated by referring to only business information containing information of necessary programs or system resources, on the basis of the policy (col. 20, lines 25-40).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Natarajan as applied to claims 1 and 2 above, and further in view of Naik et al. (7,366,989).

13. For claim 3, Natarajan does not expressly disclose that contents of a menu for setting the policy are altered from user to user. Naik teaches a method and system (abstract) of network element management by policy (col. 1, line 1 – col. 6, line 15) that includes this limitation (col. 39, line 48 - col. 42, line 8). At the time the invention was made, one of ordinary skill in the art would have added Naik in order to reduce the complexity of the topology view (col. 3, lines 25-40).

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Natarajan as applied to claims 1-6 above, and further in view of Kemp et al. (2003/0140150).

15. For claim 7, Natarajan does not expressly disclose that the monitoring structure information is updated on the basis of a difference between before and after the alteration in the business information. Kemp teaches a method and system (abstract) of system monitoring (Paras. 1-18) that includes this limitation (Paras. 35-44). At the time the invention was made, one of ordinary skill in the art would have added Kemp in order to lower the consumption of time and other costs (Paras. 8-9).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard further teachings on system monitoring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melvin H Pollack/
Examiner, Art Unit 2145
11 June 2008